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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/752,250	01/06/2004	Ronald B. Sherer	SHERER-5	3740
7590 08/08/2005				
RONALD B. SHERER 103 SOUTH SHAFFER DRIVE NEW FREEDOM, PA 17349			EXAMINER TSIDULKO, MARK	
			ART UNIT 2875	PAPER NUMBER

DATE MAILED: 08/08/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/752,250	Applicant(s) SHERER, RONALD B.	
	Examiner Mark Tsidulko	Art Unit 2875	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06 January 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-13 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 06 January 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Drawings

The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because reference character “61” has been used to designate both *shade* and *batteries* (Fig.11). Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either “Replacement Sheet” or “New Sheet” pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Specification

The disclosure is objected to because of the following informalities: detail indicated by reference character “108” (Fig.16A) is not disclosed in the specification.

Appropriate correction is required.

Claim Objections

Claim 2 is objected to because of the following informalities: it is unclear what Applicant intends by “*one battery comprises at least two batteries*”. Appropriate correction is required.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 3 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kilgore (US 5,422,803) in view of Jensen et al. (US 6,802,297).

Referring to Claim 1 Kilgore discloses (Fig.5) a wall mount [12] including a means [18] for mounting to the wall and electric candle [28].

Kilgore discloses the instant claimed invention except for a cavity for a battery and an electrical conductive means connecting the battery to the candle.

Jensen et al. disclose (Fig.2) a battery disposed in a cavity and electrical conductive means [156] connecting the battery to the candle.

Referring to Claim 3 Kilgore discloses a diffuser (candlestick [14] with an appearance of a wax) surrounded the candle (col.2, line 1) to provide aesthetically pleasing candle appearance.

It would have been obvious to one having ordinary skill in the art, at the time the invention was made, to provide the combination of the candle of Jensen et al. and attachment means of Kilgore in order to mount the battery powered electrical candle device to the wall.

Claims 2, 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kilgore and Jensen et al. as applied to claim 1 above, and further in view of Yang (US 5,461,264).

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Kilgore et al. disclose the instant claimed invention except for a two batteries and switch for supply different voltages.

Yang discloses a control circuit of battery including at least two battery units (col.6, lines 12-16) and a switch supply different voltages (col.6, lines 1-4). Using different voltages allow to obtain different light intensity.

It would have been obvious to one having ordinary skill in the art, at the time the invention was made, to provide the circuit of Yang having two battery units and a switch for different voltages in order to obtain a variable light intensity.

Claims 4-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Weber (US 4,107,770) in view of Jensen et al. (US 6,808,297).

Weber discloses (Figs.5, 6) a chandelier including a body [30] having a cavity, a plurality of arms [A] connected to the body, each having a cavity and the electrical candles [50] mounted on the arms.

Weber discloses the instant claimed invention except for batteries.

Jensen et al. disclose (Fig.2) a battery disposed in a cavity and electrical conductive means [156] connecting the battery to the candle.

It is understand that the battery can be disposed in any cavity of the device having enough space.

It would have been obvious to one having ordinary skill in the art, at the time the invention was made, to provide the combination of the candle of Jensen et al. and chandelier of Weber in order to mount the battery powered electrical candle device to the ceiling.

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Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Weber and Jensen et al. as applied to claim 4 above, and further in view of Aramaki (US 6,142,439).

Weber et al. disclose the instant claimed invention except for a medallion mounted to a ceiling and having cavity and a battery positioned in the cavity.

Aramaki discloses a medallion [12] and a battery disposed in the medallion (col.5, lines 23, 24).

It would have been obvious to one having ordinary skill in the art, at the time the invention was made, to provide the medallion of the chandelier of Weber et al. with the battery, as taught by Aramaki, in order to obtain the local power source if the AC power is out of order.

Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Weber (US 4,107,770) in view of Jensen et al. (US 6,808,297).

Weber discloses (Figs.5, 6) a chandelier including a body [30] having a cavity, a plurality of arms [A] connected to the body, each having a cavity and the electrical candles [50] mounted on the arms.

Weber discloses the instant claimed invention except for batteries.

Jensen et al. disclose (Fig.2) a battery disposed in a cavity and electrical conductive means [156] connecting the battery to the candle.

It would have been obvious to one having ordinary skill in the art, at the time the invention was made, to provide the combination of the candle of Jensen et al. and chandelier of Weber in order to mount the battery powered electrical candle device to the ceiling.

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Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kilgore (US 5,422,803) in view of Jensen et al. (US 6,802,297).

Kilgore discloses (Fig.5) a wall mount [12] including a means [18] for mounting to the wall and electric candle [28].

Kilgore discloses the instant claimed invention except for a cavity for a battery and an electrical conductive means connecting the battery to the candle.

Jensen et al. disclose (Fig.2) a battery disposed in a cavity and electrical conductive means [156] connecting the battery to the candle.

It would have been obvious to one having ordinary skill in the art, at the time the invention was made, to provide the combination of the candle of Jensen et al. and attachment means of Kilgore in order to mount the battery powered electrical candle device to the wall.

Claims 11-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jensen et al. (US 6,802,297) in view of Chliwnyj et al. (US 2001/0033488).

Referring to Claim 11 Jensen et al. disclose (Fig.2) a body portion ([130] +[14]) having an upper end and a LED [94] positioned at the upper end.

Jensen et al. discloses the instant claimed invention except for diffuser.

Chliwnyj et al. disclose an electrical candle having a diffuser [115] at the upper end of the candle (page 3, [0041]).

Referring to Claim 12 Jensen et al. disclose (Fig.2) a body portion having a battery [142].

Referring to Claim 13 Jensen et al. disclose that the upper end is a wax candlestick (col.2, line 1). Since Jensen et al. disclose the upper end made of translucent material (col.3, lines 9, 10)

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it is understood, that any translucent plastic material known in the art, may be used for the upper end of the candle.

It would have been obvious to one having ordinary skill in the art, at the time the invention was made, to provide the diffuser, as taught by Chliwnyj et al., for the candle of Jensen et al., in order to increase an aesthetic appearance.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mark Tsidulko whose telephone number is (571)272-2384. The examiner can normally be reached on 8 - 5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sandra O'Shea can be reached on (571) 272-2378. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306 for all communications.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


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M.T.

August 1, 2005



JOHN ANTHONY WARD
PRIMARY EXAMINER